

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-2282

GEORGE CHRISTIAN, SR.; LAURA CHRISTIAN,

Petitioners - Appellants,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent - Appellee.

Appeal from the United States Tax Court. (Tax Ct. No. 86-23453)

Submitted: November 19, 1996

Decided: December 2, 1996

Before MURNAGHAN and HAMILTON, Circuit Judges, and PHILLIPS, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

George Christian, Sr., Laura Christian, Appellants Pro Se. Gary R.
Allen, Richard Farber, Andrea R. Tebbets, UNITED STATES DEPARTMENT
OF JUSTICE, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

George Christian, Sr., and Laura Christian appeal from the tax court's order entered November 28, 1994. The Christians' notice of appeal, filed on June 15, 1995, is untimely. Section 7483 of the Internal Revenue Code provides that "[r]eview of a decision of the tax court shall be obtained by filing a notice of appeal with the Clerk of the Tax Court within 90 days after the decision of the Tax Court is entered." 26 U.S.C. § 7483 (1994); see also Fed. R. App. P. 13(a). The timely filing of a notice of appeal is jurisdictional. Davies v. Commissioner, 715 F.2d 435, 436 (9th Cir. 1983); Robert Louis Stevenson Apartments, Inc. v. Commissioner, 337 F.2d 681 (8th Cir. 1964); Vibro Mfg. Co. v. Commissioner, 312 F.2d 253, 254 (2d Cir. 1963). The Christians' motions to vacate did not extend the time to appeal the tax court's decision. Although a timely motion to vacate or revise a decision under Rule 13(a) tolls the time period for noting an appeal, successive post-decision motions may not be tacked together to perpetuate the prescribed time for appeal. Okon v. Commissioner, 26 F.3d 1025, 1026-27 (10th Cir.), cert. denied, ___ U.S. ___, 115 S. Ct. 583 (1994); see Fed. R. App. P. 13(a); Tax Ct. R. 162. Accordingly, we dismiss the appeal for lack of jurisdiction. In light of this disposition, the Christians' "Motion for Summary Judgment Review of Memorandum Sur order dated 2/17/88" is hereby denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not aid the decisional process.

DISMISSED